

Utah State Tax Commission Tax and Revenue



Utah State Tax Commission

- Monthly webinars of various tax topics.
- Ability to access the recording and presentation after the event.
- Free to all attendees.



Utah State Tax Commission Monthly Webinars

tax.utah.gov/training/webinars

Tax Webinars & Videos

Each month, the Tax Commission holds live public webinars on various tax topics, with access to the recording after the event. We'll also add other training items here as needed. The links will appear below as they're available.

All webinars are held on the third Thursday of each month and begin at **10:00 a.m.**



Military income tax common issues, deductions and credits

When: **May 16, 2024**

Time: **10:00am, Mountain Time**

Description: Join us to talk about the in's and out's of Utah individual income taxes for military members and families. We will discuss residency requirements as well review available credits and subtraction's available on the Utah return.

[Join Live](#)

Upcoming Webinars

May 16, 2024 – Military income tax common issues, deductions and credits

June 20, 2024 – Sales tax refund process

Information presented in past webinar recordings is current as of the date of the recording and may not reflect legislative and other subsequent changes. For the most up-to-date information, please refer to our [Forms and Publications](#) and our [Recent Info and Tax Law Changes](#) page.

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Category/Tax Type

Date	Title	Category/Tax Type	Links
Apr 18, 2024	How to determine the correct sales tax rate	Sales Taxes	MP4 PDF
Mar 21, 2024	Utah Child/Dependent Tax Information	IncomeTax	MP4 PDF
Mar 4, 2024	FTA Podcast: Customer Experience with Mike Lee	Customer Experience	External Video Link
Feb 15, 2024	Marketplace Facilitators and Sellers	Sales Tax	MP4 PDF
Jan 18, 2024	What's New for the 2023 Income Tax Filing Season	Income tax	MP4 PDF
Dec 21, 2023	Sales Related Taxes and Fees	Sales Taxes	MP4 PDF
Nov 16, 2023	Withholding Taxes and W-2 Filing	Withholding Tax	MP4 PDF
Oct 19, 2023	Sales Tax Treatment of Real Property vs Tangible Personal Property vs Tangible Personal Property Attached to Real Property	Sales Tax	MP4 PDF
Sep 21, 2023	Individual Income Tax in Taxpayer Access Point (TAP)	Taxpayer Access Point (TAP)	MP4 PDF
Aug 17, 2023	Sales and Use Tax on Goods	Sales Tax	MP4 PDF



Military Income Tax Common Topics and Credits

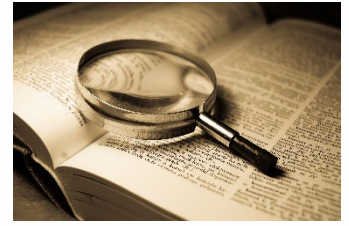


Military Income Tax Common Topics

- **Definitions**
- **Residency – Domicile**
- **Utah Taxable Income- Subtractions from Income**
- **Special Instructions**



Definitions Used In This Presentation



- **Nonresident Service Member.** A service member whose state of legal residence is not Utah, even if stationed in Utah.
- **Resident Service Member.** A service member whose state of legal residence is Utah, even if stationed outside of Utah.
- **Active Duty Military Wages.** Active duty income received for military service. This type of income is taxable only in the state of legal residence.
- **Service Member.** An active duty member of the U.S. Armed Forces, including those serving overseas or in a combat zone. This includes National Guard members who are called to active service by the President of the United States or the Secretary of Defense for a period of more than 30 consecutive days and supported by federal funds



Definitions Used In This Presentation

(cont)

- **Spouse of a Service Member.** The spouse of an active duty member of the U.S. Armed Forces. If the spouse is also a military service member, then the spouse is entitled to the tax benefits of a service member.
- **State of Legal Residence.** The state of residence the military has recorded as a service member's tax home, regardless of where the service member is stationed or deployed.
- **U.S. Armed Forces.** United States Army, Navy, Air Force, Marines, Space Force and Coast Guard. Does not include the U.S. Merchant Marines or the American Red Cross.



Home of Record VS. State of Legal Residence

"Home of record" is almost always the state where you first joined the military. Home of record (HOR) is an accounting term used by the military to determine a number of military benefits, such as travel allowances, transportation expenses, travel time to report to duty, etc.

"State of Legal Residence" (SLR) and **"Domicile"** mean the same thing; your true, fixed, and permanent home. This is the place where, although you may leave for military duty, you intend to return.



Residency for Military Members



Federal law defines the residency of service members and their spouses. See [50 U.S.C. 4001\(a\)](#).

(1)- A **service member** shall neither lose nor acquire a residence or domicile for purposes of taxation with respect to the person, personal property, or income of the service member by reason of being absent or present in any tax jurisdiction of the United States solely in compliance with military orders.

(2) -A **spouse of a service member** shall neither lose nor acquire a residence or domicile for purposes of taxation with respect to the person, personal property, or income of the spouse by reason of being absent or present in any tax jurisdiction of the United States solely to be with the service member in compliance with the service member's military orders.



NOTE: When electing to change residency please contact your financial officer to update your form [DD 2058 – State of Legal Residence Certificate](#)

Residency for Military Members

Changed in 2023- [H.R.7939 - Veterans Auto and Education Improvement Act of 2022](#)

Election: **IF MARRIED**

For any taxable year of the marriage, a service member and the spouse of such service member may elect to use for purposes of taxation, regardless of the date on which the marriage of the service member and the spouse occurred, any of the following:

- (A) The residence or domicile of the service member.
- (B) The residence or domicile of the spouse.
- (C) The permanent duty station of the service member.



NOTE: When electing to change residency please contact your financial officer to update your form [DD 2058 – State of Legal Residence Certificate](#)

Utah Taxable Income

Utah Resident Service Member

Utah treats military pay the same as the IRS. All income included in federal adjusted gross income is automatically included in Utah income. Income that is exempt from federal taxation is also exempt for Utah purposes.

Utah Resident Service Members and Spouses

- Utah residents must file a Utah income tax return if they are required to file a federal income tax return. **All of a Utah resident's income is taxable in Utah.**
 - A Utah resident's active duty military pay is **only** taxable in Utah.
 - A Utah resident with other sources of income taxed by another state may claim a credit for those taxes on their Utah return. (Utah form TC-40S)



Utah Taxable Income

Nonresident Service Members

Nonresident Service Members

Nonresident service members do not pay Utah income tax on **active duty military wages**, even if earned while stationed in Utah.

Nonresidents must file a Utah income tax return only if they have Utah taxable income. (Use code 82-Nonresident Active Duty Military Pay subtraction from income) to back out all nonresident active duty military pay.

- Examples include non-military wages earned in Utah, income from rentals or sales of property in Utah, and Utah investment income. See Utah Code §59-10-117.



Utah Taxable Income

Nonresident Service Members

To file a Utah individual income tax return as a nonresident service member:

- Enter “N” on the “Full-year Resident?” line at the top of the Utah TC-40 return.
- On line 4, report your total federal adjusted gross income, including all military and nonmilitary income.
- Report your non-Utah active duty military wages on Utah form TC-40A, Part 2, **using subtraction code 82** (nonresident active duty military pay).
- Enter the total from TC-40A, Part 2 on line 8 of the TC-40 return.
- Follow the instructions to complete Utah form TC-40B and attach it to your return.



Utah Taxable Income

Nonresident Spouse



Nonresident Spouses

All income of a service member's nonresident spouse is exempt from Utah income tax ONLY IF:

- the spouse and the service member are residents of the same state outside Utah,
- the service member is in Utah under military orders, and
- the spouse is in Utah solely to be with the service member.

NOTE: A qualified nonresident spouse should file a federal W-4 form with their employer marked "Utah Only – Exempt military spouse" to end Utah withholding on their income.



Utah Taxable Income

Nonresident Spouse

When reporting a qualified nonresident spouse's income:

- Enter “N” on the “Full-year Resident?” line next to the spouse's name at the top of the Utah TC-40 return.
- On line 4, include your spouse's federal adjusted gross income, wherever it was earned.
- Include all your spouse's income on Utah form TC-40A, Part 2, **using subtraction code 88** (nonresident military spouse income).
- Include the total from TC-40A, Part 2 on line 8 of the TC-40 return.
- Follow the instructions to complete Utah form TC-40B and attach it to your return.



TC-40B Non Resident and Part-Year Resident Schedule

40306 Non and Part-year Resident Schedule TC-40B 2023

Residency Status: ☐ Nonresident: Home state abbreviation: ☐ Part-year resident from: to

Income	Col. A - UTAH	Col. B - TOTAL
1 Wages, salaries, tips, etc. (1040, line 1z)	.00	.00
2 Taxable interest income (1040, line 2b)	.00	.00
3 Ordinary dividends (1040, line 3b)	.00	.00
4 IRAs, pensions and annuities - taxable amount (1040, lines 4b and 5b)	.00	.00
5 Social Security benefits - taxable amount (1040, line 6b)	.00	.00
6 Taxable refunds/credits/offsets of state/local income taxes (1040, Schedule 1, line 1)	.00	.00
7 Alimony received (1040, Schedule 1, line 2a)	.00	.00
8 Business income or loss (1040, Schedule 1, line 3)	.00	.00
9 Capital gain or loss (1040, line 7)	.00	.00
10 Other gains or losses (1040, Schedule 1, line 4)	.00	.00
11 Rental real estate, royalties, partnerships, S corps, trusts, etc. (1040, Schd 1, line 5)	.00	.00
12 Farm income or loss (1040, Schedule 1, line 6)	.00	.00
13 Unemployment compensation (1040, Schedule 1, line 7)	.00	.00
14 Other income (1040, Schedule 1, line 9)	.00	.00
15 Additions to income from TC-40A, Part 1 (Utah portion only in Utah column)	.00	.00
16 Reserved	.00	.00
17 Reserved	.00	.00
18 Total income/loss - add lines 1 through 17 for both columns A and B	.00	.00

Adjustments	Col. A - UTAH	Col. B - TOTAL
19 Educator expenses (1040, Schedule 1, line 11)	.00	.00
20 Certain bus. expenses of reservists, performing artists, etc. (1040, Schd 1, line 12)	.00	.00
21 Health savings account deduction (1040, Schedule 1, line 13)	.00	.00
22 Moving expenses (1040, Schedule 1, line 14) - col. A only expenses moving into Utah	.00	.00
23 Deductible part of self-employment tax (1040, Schedule 1, line 15)	.00	.00
24 Self-employed SEP, SIMPLE and qualified plans (1040, Schedule 1, line 16)	.00	.00
25 Self-employed health insurance deduction (1040, Schedule 1, line 17)	.00	.00
26 Penalty on early withdrawal of savings (1040, Schedule 1, line 18)	.00	.00
27 Alimony paid (1040, Schedule 1, line 18a)	.00	.00
28 IRA deduction (1040, Schedule 1, line 20)	.00	.00
29 Student loan interest deduction (1040, Schedule 1, line 21)	.00	.00
30 Reserved	.00	.00
31 Reserved	.00	.00
32 State tax refund included on federal form 1040, Schedule 1, line 1	.00	.00
33 Subtractions from income from TC-40A, Part 2 (Utah portion only in Utah column)	.00	.00
34 Reserved	.00	.00
35 Reserved	.00	.00
36 (see instructions):	.00	.00
37 Total adjustments - add lines 19 through 36 for both columns A and B	.00	.00

38 Subtract line 37 from line 18 for both columns A and B
Line 38, column B must equal TC-40, line 9

Non or Part-year Resident Utah Tax

39 Divide line 38 column A by line 38 column B (to 4 decimal places, not more than 1.0000 or less than 0.0000) 39

40 Subtract TC-40, line 24 from TC-40, line 23 and enter the result (not less than zero) here 40

41 UTAH TAX - Multiply line 40 by the decimal on line 39. Enter on TC-40, page 2, line 25 41

Submit this page ONLY if data entered.
Attach completed schedule to your Utah Income Tax Return.



Special Instructions for Married Couples

A married couple who files a joint federal return may file separate Utah returns **ONLY IF:**

- one spouse is a full-year Utah resident, AND
- the other spouse is a full-year nonresident.

The nonresident spouse is not required to file a Utah return unless they have Utah income.

See *Special Instructions* in the TC-40 instructions.

NOTE: If either you or your spouse is a part-year resident, you may not use Special Instructions and your filing status must match your federal return.



Special Instructions for Married Couples

Special Instructions for Couples

1. Complete a federal return “as if” you were filing separately.

DO NOT file the “as if” return with the IRS. Use this return ONLY to complete these special instructions.

2. Determine your allocation percentage:

A. Adjusted gross income on your married filing joint federal return _____

B. Utah resident spouse's federal adjusted gross income only _____

- For a full-year Utah resident, federal “as if” adjusted gross income.
- For a nonresident who has Utah income and must file a Utah return, federal adjusted gross income.

C. Allocation percentage _____

- Divide line B by line A and carry to four decimal places.

3. Follow the line-by-line instructions in this book to complete Utah form TC-40, **with the following exceptions:**

Box 1 Filing Status – Enter a “9.” This code is not shown on the return but is valid for this special calculation.

Line 4 Federal Adjusted Gross Income – Enter the federal “as if” adjusted gross income from line 2B, above.

Line 5 Additions to Income – Multiply each addition to income by the allocation percentage, above. Enter the additions on TC-40A, Part 1, and carry the total to TC-40, line 5.

Line 7 State tax refund included on federal return – Multiply any state income tax refund on federal form 1040, Schedule 1, line 1 by the allocation percentage, above.

Line 8 Subtractions from Income – Except for codes 82 and 88, multiply each subtraction from income by the allocation percentage, above. Enter the subtractions on TC-40A, Part 2, and carry the total to line 8.

If filing for the service member:

- a. Subtract the total military pay earned while not a Utah resident that was included in federal adjusted gross income on TC-40A, Part 2, using code 82.
- b. Code 88 is not allowed.

Line 11 Utah personal exemption – Multiply the number of qualifying dependents from line 2d by the allocation percentage, above. Then multiply the result by \$1,941.

Line 12 Federal standard or itemized deductions – Multiply the deduction claimed on your married filing joint federal income tax return by the allocation percentage, above.

4. Complete Utah form TC-40B using the amounts from your “as if” married filing separate federal return.
5. Complete the rest of the Utah return.
6. Attach a copy of both your married filing joint federal return and your “as if” married filing separate federal return. You do not need to include federal 1040 schedules and supporting documents.



Military Income Tax Utah Credits

- **Combat Related Death** (Code 25)
- **Military Retirement** (Code AJ)
- **Military Survivor Benefits** (Code AA)
- **Veteran Employment** (Code 27)



Combat Related Death (Code 25)

[UC §59-10-1027](#)

If you are filing a return on behalf of a military service member who died as a result of military service in a combat zone, you may claim a nonrefundable credit equal to the amount of the tax liability on the return attributable to the deceased service member.

To qualify for the credit, all of the following conditions must be met:

- The military service member must have been in an active or reserve component of the United States Army, Navy, Air Force, Marine Corps, Coast Guard or Space Force;
- The combat related death must have occurred on or after Jan. 1, 2010;
- The death must have occurred while the military service member was serving in a combat zone, or be the result of a wound, disease, or injury incurred while serving in a combat zone; and
- The service must have been on or after the date declared by the President of the United States by Executive Order as a combat zone, and on or before such designation is terminated by the President.



Combat Related Death (Code 25)(cont)

[UC §59-10-1027](#)

- If the return is being filed on behalf of single person (or married filing separately), the credit is equal to the tax liability shown on line 22 of the Utah return. Enter this amount on TC-40A, Part 4, using code 25.
- If the return is being filed as married filing jointly (deceased service member and spouse), use the following calculation to determine the allowable credit.

Combat Related Death Tax Credit Calculation	
1. Adjusted gross income on the joint federal return	\$
2. Federal adjusted gross income of deceased military member	\$
3. Allocated percentage – divide line 2 by line 1	
4. Amount of tax liability from TC-40, line 22	\$
5. Combat Related Death Credit – multiply line 3 by line 4.	\$
Enter this amount on TC-40A, Part 4, using code 25.	



Military Retirement

(Code AJ)

[UC §59-10-1043](#)

You may qualify for this credit if you or your spouse (if filing jointly) received taxable military retirement pay.

- Military retirement pay means retirement pay related to service in the armed forces, including military retirement pay received by a survivor of a deceased service member.
 - It does not include Social Security income, 401(k) or IRA distributions, or other sources of income, such as non-military federal retirement.
- You may only claim this credit for military retirement income included in adjusted gross income reported on this return.

Note: You may not claim this credit if you or your spouse (if filing jointly) claim the Retirement Credit (code 18).



Military Retirement (Code AJ)(cont)

[UC §59-10-1043](#)

Complete the Military Retirement Credit Worksheet, below, to calculate this credit.

Military Retirement Credit Worksheet	
Complete one worksheet for each person taking this credit.	
1. Enter the amount of taxable military retirement pay	1.
2. Military Retirement Credit. Multiply line 1 by 0.0465	2.

- Do not take this credit if you receive survivor benefits for a service member who died while on active duty or while in training; instead, take the [Military Survivor Benefits Credit \(code AA\)](#).

Note: You may not carry forward or back any credit that is more than your tax liability.



Military Survivor Benefits

(Code AA)

[UC §59-10-1036](#)

- If you are a surviving spouse or dependent child (10 U.S.C. Sec 1447) of a deceased military member, you may claim a credit for 4.65 percent of the survivor benefits you received during the year.
- Survivor benefits are benefits paid due to:
 - the death of a member of the armed forces or reserve while on active duty, or
 - the death of a member of the reserve that results from a service-connected cause while performing inactive duty training.
- **Note:** Do not take this credit if the deceased service member was retired from the armed forces; instead, take the [Military Retirement Credit \(code AJ\)](#).

Credit Calculation

Survivor benefits _____ x .0465 = Credit _____

- **Note:** You may not carry forward or back any credit that is more than your tax liability.



Veteran Employment (Code 27)

[UC §59-10-1031](#)

A nonrefundable credit is available to employers who hire a qualified, recently deployed veteran.

A qualified, recently deployed veteran is a person who was mobilized to active federal military service in an active or reserve component of the United States Armed Forces, and received an honorable or general discharge within the two-year period before the employment begins.

To qualify for the credit, the qualified veteran must meet all of the following conditions:

- received an honorable or general discharge within the two-year period before the employment begins;
- was collecting or was eligible to collect unemployment benefits, or has exhausted their unemployment benefits within the last two years, under UC Title 35A, Chapter 4, Part 4, Benefits and Eligibility; and
- work for the taxpayer for at least 35 hours per week for not less than 45 of the 52 weeks following the veteran's employment start date.



Veteran Employment (Code 27)(cont)

[UC §59-10-1031](#)

The credit is claimed beginning in the year the 45 consecutive weeks in paragraph 3 on prior slide are met.

Calculate the credit as follows:

Calculating the Veteran Employment Tax Credit	First Year Credit (count all months in the year the 45 week requirement is met)	1. Number of months or partial months the veteran was employed in the first year	
		2. Monthly credit allowable in first year	\$ 200
		3. First year credit – multiply line 1 by line 2 (maximum \$2,400)	\$
	Second Year Credit		
			4. Number of months or partial months the veteran was employed in the 2nd year
			5. Monthly credit allowable in second year
		6. Second year credit – multiply line 4 by line 5 (maximum (\$4,800)	\$ 400
			\$



Veteran Employment (Code 27)(cont)

[UC §59-10-1031](#)

If taking this credit, you must keep the following documentation and make it available to the Tax Commission upon request:

1. the veteran's name, last known address, and taxpayer identification or Social Security number;
2. the start date of employment;
3. documentation establishing that the veteran was employed 45 out of the 52 weeks after the date of employment;
4. documentation from the veteran's military service unit showing that the veteran was recently deployed; and
5. a signed statement from the Department of Workforce Services that the veteran was collecting, was eligible to collect, or exhausted their unemployment benefits within the last two years.



Note: This credit may be carried forward for up to 5 years

Resources

- [50 U.S. Code § 4001](#) - Residence for tax purposes
- [H.R.7939](#) - Veterans Auto and Education Improvement Act of 2022
- [incometax.utah.gov](#)
- [Utah TC-40 Instructions](#) - Utah Individual Income Tax Return Instructions
- [Utah Publication 57](#) — Military Personnel Instructions



Tax Commission Resources

Contact Us

Practitioner Hotline	801-297-7790 or 1-800-662-4335 ext. 7790
Customer Service – payment processing & liens	801-297-2200 or 1-800-662-4335
Taxpayer Resources Unit – basic tax questions	801-297-7705 or 1-800-662-4335 ext. 7705
TAP Support	801-297-3996 or 1-800-662-4335 ext. 3996 Email: tapsupport@utah.gov
Taxpayer Advocate Service	801-297-7562 or 1-800-662-4335 ext. 7562
Email	taxmaster@utah.gov

Online Resources

Tax Commission Website	tax.utah.gov
Forms and Publications	tax.utah.gov/forms
Online Services (TAP)	tap.utah.gov
Tax Practitioner Information	tax.utah.gov/taxpros
Individual Income Tax	incometax.utah.gov
Tax Training	tax.utah.gov/training
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Thank You

